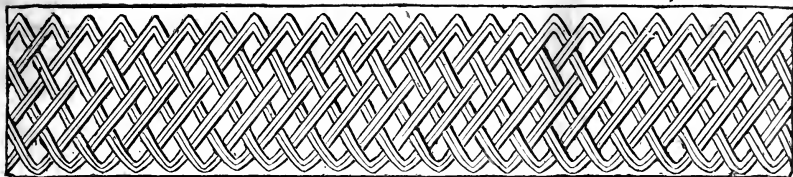


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IS THE CHURCH OF ENGLAND WORTH PRESERVING?

"De vitâ et sanguine certant."

ÆN. XII. 763.

A PAPER contributed to the CONTEMPORARY REVIEW for October, 1874, under the title of "Ritual and Ritualism," elicited, together with many expressions of interest and approval, many also of disappointment. There seemed to have been an expectation that the essay might untie, or cut, the knot of the questions which had been so warmly, if not fiercely, agitated during the preceding session of Parliament. But it had no such ambitious aim. Its object was, within the limited sphere of my means, simply to dispose men towards reflection, to substitute for the temper of the battle-field, good as in its place that may be, the temper of the chamber, where we commune with our own hearts, and are still. And this was done for two reasons: the first, because all true meditation is dispassionate, and a dispassionate mood is the first indispensable condition for the resolution of controversies; the second, because there seemed to me to be real dangers connected, in the present day, with the merely fashionable accumulation of ritual, more subtle and very much more widely spread than the pronounced manifestations which had recently been so much debated.

The season is now tranquil; the furnace, no longer fed by the fuel of Parliamentary contentions among the highest authorities, has grown cool, and may be approached with safety, or, at least, with diminished risk. Those who opposed the Ecclesiastical Titles Bill, in 1851, in some cases had for their reward (as I have reason

to know) paragraphs in "religious" newspapers, stating circumstantially that they had joined the Church of Rome. Those who questioned the Public Worship Act, in 1874, were more mildly, but as summarily, punished in being set down as Ritualists. In the heat of the period, it would have been mere folly to dispute the justice of the "ticketing," or classification. Perhaps it may now be allowed me to say, that I do not approach this question as a partisan. Were the question one between historical Christianity and systems opposed to or divergent from it, I could not honestly profess that I did not take a side. But as regards ritual, by which I understand the exterior forms of Divine worship, I have never, at any time of my life, been employed in promoting its extension; never engaged in any either of its general or its local controversies. In the question of attendance at this church or that, I have never been governed by the abundance or the scantiness of its ritual, which I regard purely as an instrument, aiming at an end; as one of many instruments, and not as the first among them. To uphold the integrity of the Christian dogma, to trace its working, and to exhibit its adaptation to human thought and human welfare, in all the varying experience of the ages, is, in my view, perhaps the noblest of all tasks which it is given to the human mind to pursue. This is the guardianship of the great fountain of human hope, happiness, and virtue. But with respect to the clothing, which the Gospel may take to itself, my mind has a large margin of indulgence, if not of laxity, both ways. Much is to be allowed, I can hardly say how much, to national, sectional, and personal divergences, and to me it is indeed grievous to think that any range of liberty which was respected in the storm of the sixteenth century should be denounced and threatened in the comparative calm of the nineteenth. Reverence, indeed, is a thing indispensable and invaluable; but reverence is one thing, and ritual another; and while reverence is preserved, I would never, according to my own inclination individually, quarrel with my brother about ritual. Nothing, therefore, would be easier than for me, after the manner of those who affect impartiality, to censure sharply the faults which, from our elevated point of view, we detect on both sides. Nothing easier, but few things more mischievous; for what is impartiality between the two, is often gross partiality and one-sidedness in the judgment of each, by reason of its ruthlessly shutting out of view those kernels of truth which are probably on both sides to be found under the respective husks of warring prejudice.

Without, however, any assumption of the tone of the critic or the pedagogue, there is one recommendation which may be addressed to both parties in the controversy of ritualism. They should surely be exhorted to cease altogether, or at least to reduce

to its minimum, the practice of importing into questions concerning the externals of religion the element of devotional significance. The phrase is borrowed from a pamphlet by Dr. Trevor,* which bears the stamp, not only of ability, but of an independent mind. The topic is, in my belief, of deep moment. It cannot, perhaps, be more effectively illustrated than by a reference to the particular article of ritual which has been, more than any other, the subject of recent contest—namely, the question whether, during the prayer of consecration in the Office of Communion, the priest shall stand with his face towards the east, or towards the south.

By some mental process, which it seems difficult for an unbiassed understanding to comprehend, a controversy, which may almost be called furious, has been raised on this matter. It of course transcends—indeed, it almost scorns—the bounds of the narrower question, whether the one or the other posture is agreeable, or, as may perhaps better be said, is more agreeable, to the legal prescriptions of the rubrics. For it is held, and held on both sides by persons not inconsiderable either in weight or number, that, if the priest looks eastwards at this point of the service, he thereby affirms the doctrines of the Real Presence and the Eucharistic Sacrifice, but that, if on the contrary he takes his place at the north end of the altar or table, he thereby puts a negative on those doctrines. If the truth of this contention be admitted, without doubt the most formidable consequences may then be apprehended from any possible issue of the debate. It is idle to hope that even judges can preserve the balance of their minds when the air comes to be so thickly charged with storm. We may say almost with certainty that there are many now reckoned as members of the Church of England, whom, on the one side, the affirmation of those principles would distract and might displace, while, on the other, their negation would precipitate a schism of an enduring character. But if this be even partially true, does it not elevate into an imperious duty, for all right-minded men, that which is in itself a rule of reason—namely, that we should steadily resolve not to annex to any particular acts of external usage a special dogmatic interpretation, so long as they will naturally and unconstrainedly bear some sense not entailing that consequence?

Now, it seems quite evident that, in the present instance, the contentions of each of the two parties are perfectly capable of being explained and supported upon grounds having no reference to the doctrines, with which they have been somewhat wilfully placed in a connection as stringent as that of the folds of the *boa-constrictor*. Take, for example, the case in favour of what we may be allowed to call orientation. The bishops at the Savoy Con-

* "Trevor's Disputed Rubrics" (Parker), pp. 13 and *seqq.*

ference laid down the principle, as one founded in general propriety and reason, that when the minister addresses the people he should turn himself towards them, as, for example, in preaching or in reading the lessons from Holy Scripture ; but that when, for and with them, he addresses himself to God, there is solecism and incongruity in his being placed as if he were addressing them. The natural course, then, they held to be, that congregation and minister, engaged in a common act, should, unless conformity between the inward and the outward is to be entirely expelled from the regulation of human demeanour, look together in a common direction. When this is done by a clergyman reading the Litany at a faldstool, he commonly turns his back on part of the congregation, and part of the congregation on him. When the same rule is followed in the prayer of consecration, the back of the clergyman is turned towards the entire congregation only from the circumstance that he officiates at the extreme east end of the church. The proper idea of the position is, not that he turns his back on the congregation, but that, placed at the head of the congregation, and acting for as well as with them in the capacity of the public organ of the assembled flock, he and they all turn in the same direction, and his back is towards the whole only as the back of the first line of worshippers behind him is towards all their fellow-worshippers. He simply does that, which every one does in sitting or standing at the head of a column or body of men. And if he be a believer in the Real Presence and the Eucharistic Sacrifice, woe be to him in that capacity, unless he has some other and firmer defence for these doctrines than the assumed symbolism of an attitude that he shares with so many Protestant clergymen of Continental Europe, who are known to be bound but little to the first, and are generally adverse to the second of these doctrines. Thus, then, we have, in a particular view of the mere proprieties of the case, a perfectly adequate explanation of the desire to assume the eastward position, without any reference whatever to any given doctrinal significance, be it cherished or be it obnoxious. Let us now turn to the other side of the question, and see whether similar reasoning will not hold good.

It does not follow, upon the expulsion of this transcendental element from the discussion, that the objector to the plan of facing eastwards is left without a case, which again is one of simple policy and expediency, from his own point of view. He may, like many of his countrymen, be so wanting in the rudiments of the æsthetic sense, as to think that the most advantageous position for a Christian pastor towards the people is that in which he speaks all the prayers straight into their faces, and the best arrangement for the flock that of the double pews, in which they are set to look at one another through the service, in order to

correct, by mutual contemplation, any excessive tendency to rapt and collected devotion. But it is not necessary to impute to him this irrational frame of mind. He may admit that in the act of prayer, as a rule, minister and people may advantageously look in the same direction. He may renounce the imputation upon his adversaries that, by facing eastwards, they express adhesion to certain doctrines. And he may still point out that there is more to be said. The prayer of consecration is a prayer not of petition only, but of action too. In the course of it, by no less than five parenthetical rubrics, the priest is directed to perform as many manual acts; and, quite apart from the legal argument that the reference in the principal rubric to breaking the bread before the people requires the action to be performed in their view, he may contend, if he thinks fit, that for the better comprehension of the service, it is well that they should have the power of seeing all that is required of the priest respecting the handling of the sacred elements, and that this cannot be seen, or cannot so well be seen, if he faces eastwards, as if, standing at the north end of the holy table, he faces towards the south. I do not enter into the question whether this argument be conclusive, either as to the legal interpretation of the rubric, with which at present we have nothing to do, or as to the advantage of actual view and the comparative facilities for allowing it. It is enough to show that arguments may be made in perfect good faith, and free from anything irrational, against as well as for the eastward position, without embracing the embittering element of doctrinal significance; that both from the one side and the other the question may be reasonably debated on general grounds of religious expediency. For if this be so, it becomes in a high degree impolitic, and injurious to the interests of religion, to fasten upon these questions of position, whether in the sense of approval or of repudiation, significations which they do not require, and which they will only so far bear that, by prejudice or association, we can continually give to words and things a colour they do not of themselves possess. There are surely enough real occasions for contention in the world to satisfy the most greedy appetite, without adding to them those which are conventional—that is to say, those where the contention is not upon the things themselves, but upon the constructions which prejudice or passion may attach to them. Surely if a Zuinglian could persuade himself that the English Communion Office was founded upon the basis of Zuinglian ideas, he would act weakly and inconsistently should he renounce the ministry of the Church because he was ordered to face eastwards during the prayer of consecration; and at least as surely would one, believing in the Catholic and primitive character of the office, be open to similar blame if he in like manner repu-

diated his function as a priest upon being required to take his place only on the north. Preferences for the one or the other position it is easy to conceive. To varying ideas of worship—and in these later times the idea of worship does materially vary—the one or the other may seem, or may even be, more thoroughly conformable; but strange indeed, in my view, must be the composition of the mind which can deliberately judge that the position at the north end is in itself irreverent, or that facing towards the east is in itself superstitious. Both cannot be right in a dispute, but both may be wrong; and one of the many ways in which this comes about is when the thing contended for is, by a common consent in error, needlessly lifted out of the region of things indifferent into that of things essential, and a distinction, founded originally on the phantasy of man, becomes the *articulus stantis aut cadentis concordie*.

It sometimes seems as though, even in the tumult of the Reformation, when the fountains of the great deep were broken up, the general mind must yet have been more solid and steadier—perhaps even more charitable—than now; though the edge of controversies at that epoch was physical as well as moral, and involved, at every sweep of the weapon, national defence and the safety or peril of life and limb. Members of the Church of England, even now somewhat irreverent as a body with reference to kneeling in ordinary worship, are nevertheless all content to kneel in the act of receiving the Holy Communion; a most becoming, most soothing, most fraternal usage. General censure would descend upon the man who should attempt to disturb it by alleging that this humble attitude of obeisance too much favoured the idea of paying worship to the consecrated elements. No less certainly, and even more sharply, would he be condemned who, himself believing in the Real Presence, should endeavour to force it home on others as the only key to the meaning of the usage. But who can fail to see that for minds, I will not say jaundiced, but preoccupied with the disposition to attach extreme constructions to outward acts in the direction in which they seem to lean, nothing is more easy than to annex to the kneeling attitude of the receiver in the Holy Eucharist the colour and idea of adoration of the consecrated elements? So, also, nothing would be more difficult than, when once such a colour has been so annexed, again to detach it effectually, and thus to bring the practice to an equitable judgment. Yet the Church of England, which has unitedly settled down upon the question of kneeling at reception, has resolutely thrust aside the extreme construction through which a baleful concurrence of opposing partisans, might have rendered it intolerable. And this she did, carrying this practice without shock or hesitation through all

the fluctuations of her Liturgy, during times when theological controversy was exasperated by every mundane passion which either the use of force, or its anticipation, can arouse. It will indeed be strange—should we not rather say it will indeed be shameful—if, after conducting the desperate struggles of the Reformation to their issue, and when we have realized its moral and social fruits for three centuries and a half, we prove to be so much less wise and less forbearing than our less civilized and refined forefathers, that we are to be led, by an aggravated misuse of this practice of gratuitous construction, to create a breach upon a question so much less difficult, so much less calling for or warranting extreme issues, than that which they proved themselves able to accommodate?

It may indeed be said, and not untruly, that in a certain sense both the friends and the adversaries of the practice I have been considering are agreed in attaching to it the meaning I presume to deprecate. Where both parties to a suit are agreed, it is idle, we may be told, to dispute what they concur in. Now the very point I desire to bring into clear view is that this is not a suit with two parties to it, but that many, perhaps most, of those who are entitled to be heard, are not before the court; many—aye, multitudes—who think either this question should be let alone, or that if it is not let alone, it should be decided upon dry and cold considerations of law, history, and science, so far as they are found to inhere in it; not judged by patches of glaring colour, the symbols of party, which are fastened upon it from without. If this be a just view, the concurrence of the two parties named above in their construction of the eastward position is no better a reason for the acquiescence of the dispassionate community, than the agreement of two boys at a public school to fight, in order to ascertain who is the strongest, is a reason against the interference of bystanders to stop them if they can.

There is in political life a practice analogous, as it seems to me, to the practice of importing doctrinal significance into discussions upon ceremonial. It is indeed a very common fashion to urge that something, in itself good and allowable, has become bad and inadmissible on account of motives imputed to those who ask it. The Reforms proposed in 1831 and 1866 were not to be conceded, because they would be used as levers for ulterior extensions of the franchise. The Irish Church was not to be disestablished, because the change would serve as an argument for disestablishing the Church of England. Irish public-houses must not be closed on Sunday where the people desire it, for fear the measure should bring about a similar closing in England, where public opinion is not ripe for it. But then, in the secular world, this very practice is taken as the indication of an illiberal mind, and a short-sighted policy.

The truly liberal maxim has ever been that by granting just claims you disarm undue demands: that things should be judged as they are in themselves, and not in the extraneous considerations, and remote eventualities, which sanguine friends and bitter foes oftentimes agree in annexing to them. It is, therefore, with unfeigned surprise, that I read in the work of no mean writer on this rubrical controversy, that in May last he "prayed" that the priest might be allowed to face eastwards, but that he would now refuse it, because "this eastward position is claimed for distinctively doctrinal purposes." I am reluctant to cite a respected name, but it is necessary to give the means of verifying my statement by a reference to Dr. Swainson's "*Rubrical Question of 1874*,"* pp. 1, 5. I might, I believe, add other instances of the same unfortunate line of thought, but it is needless.

What, then, is the upshot of this extraordinary preference of the worse over the better, the more arbitrary over the direct and inherent construction? It is this, that it heats the blood and quickens the zeal of sympathizing partisans. But then it has exactly the same effect upon the partisans of the two opposite opinions. So that it widens breaches, feeds the spirit of mutual defiance, and affords, like abundant alcohol, an intoxicating satisfaction, to be followed by the remorse of the morrow when the mischief has been done. It enhances the difficulties of the judge's task, and makes hearty acquiescence in his decisions almost hopeless.

Wherever this importation of doctrinal significance, I care not from which side, has been effected, it powerfully tends to persuade the worsted party that the law has been strained against him on grounds extraneous to the argument, and to drive him either upon direct disobedience, or upon circuitous modes of counteracting the operation of the judgment. Those against whom the letter of the law seems to be turned invidiously, are apt to think they may freely and justly avail themselves of it wherever it is in their favour. Supposing, for example, that, by a judgment appearing to rest on considerations of policy and not of law, the eastward position were to be condemned, who does not see that those who thought themselves wronged might discover ample means of compensation? Some have contended that the clergy, sustained by their flocks, might retrench the services of the parish church; and, offering within its walls a minimum both of ritual and of the opportunities of worship, might elsewhere institute and attend services which, under a recent Statute (18 & 19 Viet. c. 86), many believe they might carry on without being subject to the restraints of the Act of Uniformity.

Or again, in the churches themselves, where the clergyman was

* But, at p. 70, Dr. Swainson, with great candour, states that, if the law be declared adversely to his view, he will at once renounce this imputation of doctrinal significance.

forbidden to adopt a position construed as implying an excessive reverence, not he only, but, with certain immunity from consequences, his congregation might, and probably would, resort to other external acts, at least as effectual for the same purpose, much more closely related to doctrinal significance, much more conspicuous in themselves, and, perhaps, much more offensive to fellow-worshippers, than the position which had been prohibited. What, upon either of these suppositions, would have been gained by the most signal victory in the courts, either for truth or for peace, or even for the feelings and objects of those who would be called the winners?

I have dwelt at length on this particular subject, not because I imagine the foregoing remarks to offer a solution of a difficulty, but in order to point out and to avert, if possible, what would make a solution impossible. The very first condition of healthy thought and action is an effort at self-mastery, and the expulsion, from the controversies concerning certain rubrics, of considerations which aggravate those controversies into hopelessness, and which seem to dwell in them, as demons dwelt in the bodies of the possessed, till they were expelled by the beneficent Saviour, and left the sufferers at length restored to their right mind. If we cannot fulfil this first condition of sanity, it is, I fear, hopeless to expect that the day of doom for the Church of England can be long postponed. It is bad enough in my opinion that we should have to adjust these difficulties by the necessarily rude and coarse machinery of courts. I do not disguise my belief, founded on very long and rather anxious observation, that the series of penal proceedings in the English Church during the last forty years, which commenced with the action of the University of Oxford against Bishop Hampden, have as a whole been mischievous. I make no accusation, in speaking thus, against those who have promoted them. I will not say that they have been without provocation, that they could easily have been avoided, that they have been dishonourably instituted, or vindictively pursued. I do not inquire whether, when they have been strictly judicial, they have or have not generally added to the fame of our British Judicature for power or for learning. Unhappily they came upon a country little conversant with theological, historical, or ecclesiastical science, and a country which had not been used for three hundred years, with the rarest exceptions, to raise these questions before the tribunals. The only one of them, in which I have taken a part, was the summary proceeding of the Council of King's College against Mr. Maurice. I made an ineffectual endeavour, with the support of Judge Patteson and Sir B. Brodie, and the approval of Bishop Blomfield, to check what seemed to me the unwise and ruthless vehemence of the majority which dismissed that gentleman from his office. It may be that, in this or that particular case, a balance of good over

evil may have resulted. It could not but be that in particular instances some who would not have wished them to be instituted, could not wish them to fail. But I have very long been convinced that, as a whole, they have exasperated strife and not composed it; have tempted men to employ a substitute, at once violent and inefficient, for moral and mental force; have aggravated perils which they were honestly intended to avert; have impaired confidence, and shaken the fabric of the Church to its foundations.

The experience of half a century ago may, in part, serve to illustrate an opinion which may have startled many of my readers, but which long ago I entertained and made known in quarters of great influence. Nothing could be sharper than was at that time the animosity of Churchmen in general against what are termed Evangelical opinions. There was language used about them and their proposers in works of authority—such, for instance, as certain tracts of the Society for Promoting Christian Knowledge—which was not only insolent, but almost libellous. But it seems that the Church took to heart the wise counsel, which Athene offered to Achilles, that he should abuse Agamemnon, but not touch him. “Fall foul of him with words, as much as you have a mind: but keep your sword within the scabbard.”* The sword at that period was never drawn; and the controversy settled itself in an advantageous way. Are we driven to admit that there was, among the rulers and the ruled of those days, more of patience, or of faith in moral force, or both; more of the temper of Gamaliel, and less of the temper of Saul?

At a later date, it is true that Bishop Philpotts broke the tradition of this pacific policy in the case of Mr. Gorham. But all who knew that remarkable prelate are aware that he was a man of sole action, rather than of counsel and concert; and it was an individual, not a body, which was responsible for striking the blow, of which the recoil so seriously strained the Church of England.

While frankly avowing the estimate I form of the results which have flowed from these penal proceedings in matter which is of law undoubtedly, but of conscience as well as law, I am far from believing that the public fully shares my views. I must suppose, especially after the legislative proceedings of last year, that my countrymen are well satisfied with the general or average results, and have detected in them what my eyesight has not perceived—a tendency to compose the troubles, and consolidate the fabric, of the Church. My ambition does not, then, soar so high as to ask for a renunciation of the comforts and advantages of religious litigation. All that I am now contending for is that the suits which may be raised ought not to be embittered by the opening of sources of

* II. i. 210.

exasperation that do not properly belong to them; that contribute absolutely nothing to the legal argument on either side for the elucidation of the rubrics; and that, on the contrary, by inflaming passion, and suggesting prejudice, darken and weaken, while they excite, the intellect of all concerned.

If, as I hope, I may have carried with me some degree of concurrence in the main proposition I have thus far urged, let us now turn to survey a wider prospect. Let us look for a while at the condition of the English Church—its fears and dangers on the one hand, its powers and capacities on the other; and let us then ask ourselves whether duty binds and prudence recommends us to tear it in pieces, or to hold it together.

It is necessary first to free the inquiry from a source of verbal misunderstanding. In one and the same body, we see two aspects, two characters, perfectly distinct. That body declares herself, and is supposed by the law of the country to be, the ancient and Catholic Church of the country, while it is also the national establishment of Religion. In the first capacity, it derives its lineage and commission from our Saviour and the Apostles; in the second, it is officered and controlled by the State. We may speak of holding the Church together, or of holding the Church and the State together. I am far from placing the two duties on the same ground, or assigning to them a common elevation. Yet the subjects are, in a certain form, closely connected; and the form is this. It may be that the continuing union of the Church within herself will not secure without limit the continuing union of the Church with the State. But it is certain, nevertheless, that the splitting of the Church will destroy its union with the State. Not only as a Church, but as an endowed establishment, it is, without doubt, still very strong. Sir Robert Peel said, over a quarter of a century ago, in discussing the emancipation of the Jews, that the only dangers of the Church consisted in its internal divisions. Within that quarter of a century the dangers have increased, but with them has probably increased also the strength to bear them. Menace and peril from without, against the Church as an Establishment, have made ground, but are still within measure; still represent a minor, not a major, social force; though they are seconded by a general movement of the time, very visible in other countries, and apparently pervading Christendom at large, yet with a current certainly slow, perhaps indefinitely slow. But though the Church may be possessed of a sufficient fund of strength, there is no redundancy that can be safely parted with. Any secession, if of sensible amount, constituting itself into a separate body, would operate on the National Church, with reference to its nationality, like a rent in a wall, which is mainly important, not by the weight of material it detaches, but by the discontinuity it leaves.

It is not, indeed, only the severance of the Church into two bodies which might precipitate disestablishment. Obstinacy and exasperation of internal strife might operate yet more effectively towards the same end. The renewal of scenes and occurrences like those of the session of 1874 would be felt, even more heavily than on that first occasion, to involve not only pain, but degradation. The disposition of some to deny to the members of the National Church the commonest privileges belonging to a religious communion, the determination to cancel her birthright for a mess of pottage, the natural shrinking of the better and more refined minds from indecent conflict, the occasional exhibition of cynicism, presumption, ignorance, and contumely, were, indeed, relieved by much genial good sense and good feeling, found, perhaps, not least conspicuously among those who were by religious profession most widely severed from the National Church. But the mischief of one can inflict wounds on a religious body, which the abstinence and silent disapproval of a hundred cannot heal; and, unless an English spirit has departed wholly from the precincts of the English Church, she will, when the outrage to feeling grows unendurable, at least in the persons of the most high-minded among her children, absolutely decline the degrading relation to which not a few seem to think her born. I pass these to consider whether it be a duty or not to keep the Church united, with the negative assumption implied in these remarks, that without such union there cannot be a reasonable hope of saving the Establishment.

But it may be said, what is this internal union of the Church, which is professed to be of such value? We have within it men who build, or suppose themselves to build, their religion only upon their private judgment, unequally yoked with those who acknowledge the guiding value of Christian history and witness; men who believe in a visible Church, and men who do not; men who desire a further Reformation, and men who think the Reformation we have had already went too far; men who think a Church exists for the custody and teaching of the truth, and men who view it as a magazine for the collection and parade of all sorts of opinions for all sorts of customers. Nay, besides all this, are there not those who, with such concealment only as prudence may require, question the authority of Holy Scripture, and doubt, or dissolve into misty figure, even the cardinal facts of our redemption enshrined in the Apostles' Creed? What union, compatible with the avowed or unavowed existence of these diversities, can deserve the name, or can be worth paying a price to maintain?

Now, before we examine the value or no value of this union, the first question is—does it exist, and how and where does it exist, as a fact? It does; and it is to be found in the common law.

common action, common worship, and probably, above all, the common Manual of worship, in the Church. Though it is accompanied with many divergences of dogmatic leaning, and though these differences are often prosecuted with a lamentable bitterness, yet in the law, the worship, and the Manual, they have a common centre, to which, upon the whole, all, or nearly all, the members of the body are really and strongly, though it may be not uniformly nor altogether consistently, attached, and which is at once distinctive, and in its measure efficient. Nay, more, it has been stated in public, and I incline to believe with truth, that the rubrics of the Church are at this moment more accurately followed than at any period of her history since the Reformation. Twelve months ago I scandalized the tender consciences of some by pointing out that in a law which combined the three conspicuous features of being extremely minute, very ancient, and in its essence not prohibitive but directory, absolute and uniform obedience was hardly to be expected, perhaps, in the strict meaning of the terms, hardly even to be desired. I admit the scandals of division, and the greater scandals of dissension; but there are, as I believe, fifteen millions of people in this country who have not thrown off their allegiance to its Church, and these people, when they speak of it, to a great extent mean the same thing, and, when they resort to it, willingly concur in the same acts; willingly, on the whole, though the different portions of them each abate something from their individual preferences to meet on common ground, as Tories, Whigs, and Radicals do the like, to meet on the common ground of our living and working constitution. This union, then, I hold to be a fact, and I contend that it is a fact worth preserving. I do not beg that question: I only aver that it is the question really at issue; and I ask that it may be dispassionately considered, for many questions of conduct depend upon it.

The duty of promoting union in religion is elevated by special causes at the present day into a peculiar solemnity; while these causes also envelop it in an extraordinary intricacy. The religion of Christ as a whole, nay, even the pallid scheme of Theism, is assailed with a sweep and vehemence of hostility greater probably than at any former period. While the war thus rages without the wall, none can say that the reciprocal antagonism of Christian bodies is perceptibly mitigated within it, or that the demarcating spaces between them are narrower than they were. Most singular of all, the greatest of the Christian communions, to say nothing of the smaller, are agitated singly and severally by the presence or proximity of internal schism. The Papal Church has gone to war with portions of its adherents in Armenia, in Germany, in Italy, in Switzerland; besides being in conflict with the greater number of Christian States, especially of those where the Roman

religion is professed. The relations of the Church of England beyond St. George's Channel, however euphemistically treated in some quarters, are dark, and darkening still. Even the immovable East is shaken. The Slavonic, and the Hellenic, or non-Slavonic, elements are at present, though without doctrinal variance, yet in sharp ecclesiastical contention; and a formidable schism in Bulgaria, not discountenanced by Russian influences, disturbs at its own doors the ancient and venerable See of Constantinople and its sister Patriarchates. This is a rude and slight, but I believe an accurate outline. I do not say it carries us beyond, but it certainly carries up to this point: that now, more than ever, our steps should be wary and our heads cool, and that, if we should not disguise the true significance of controversies, neither should we aggravate them by pouring Cayenne pepper into every opened wound.

I do not say that, in circumstances like these, it becomes the duty of each man to sacrifice everything for the internal unity of his own communion. When that communion, by wanton innovation, betrays its duty, and aggravates the controversies of Christendom, the very best friend to its eventual unity may be he who at all hazards, and to all lengths, resists the revolutionary change. But it would seem that, in all cases where the religious body to which we belong has not set up the *petra scandali*, the presumptive duty of the individual who remains in its communion, to study its peace, is enhanced. Nowhere, in my view, does this proposition apply with such force as to the case of the English Church. This Church and nation, by an use of their reforming powers, upon the whole wonderfully temperate, found for themselves, amidst the tempests of the sixteenth and seventeenth centuries, a haven of comparative tranquillity, from which, for more than two centuries, they have not been dislodged. Within this haven it has, especially of late years, been amply proved that every good work of the Divine Kingdom may be prosecuted with effect, and every quality that enlarges and ennobles human character may be abundantly reared. I do not now speak of our Nonconformists, for whom I entertain a very cordial respect: I confine myself to what is still the National Church; and I earnestly urge it upon all her members that the more they study her place and function in Christendom, the more they will find that her unity, qualified but real, is worth preserving.

I will dwell but very lightly on the arguments which sustain this conclusion. They refer first to the national office of this great institution. It can hardly be described better than in a few words which I extract from a recent article in the *Edinburgh Review*:—

“The crown and flower of such a movement was the Elizabethan Church

of England. There the watchword was never destruction or innovation; there a simple, Scriptural, Catholic, and objective teaching, has preserved us from superstitious and dogmatic vagaries on the one hand, and from the subjective weakness of many of the Protestant sects on the other. To the formation of such a Church the nation gave its strength and its intelligence, viz., that of the idea of More(?), of Shakespeare, and of Bacon; and what is more, the whole nation contributed its good sense, its sobriety, its steadfastness, and its appreciation of a manly and regulated freedom."—*Edinburgh Review*, April, 1875, p. 574.

There are those who think that bold changes in the law and constitution of the Church, in the direction of developed Protestantism, would bring within its borders a larger proportion of the people. My own opinion is the reverse of this. I look upon any changes whatever, if serious in amount and contentious in character, as synonymous with the destruction of the National Establishment. But the matter is one of opinion only, and I fully admit the title of the nation to make any such changes, if they think fit, with such a purpose in view.

But, besides her national office and capabilities, the Church of England, in her higher character as a form of the Christian religion, has a position at once most perilous and most precious (I here borrow the well-known expression of De Maistre) with reference to Christendom at large. She alone, of all Churches, has points of contact, of access, of sympathy, with all the important sections of the Christian community. Liable, more than any other communion, to see her less stable or more fastidious members drop off from her now in this direction and now in that, she is, nevertheless, in a partial but not an unreal sense, a link of union between the several fractions of the Christian body. At every point of her frontier, she is in close competition with the great Latin communion, and with the varied, active, and in no way other than respectable, forms of Nonconformity. Nor does this represent the whole of the danger which, as to her sectional interests, she daily suffers in detail. She inhabits a sphere of greater social activity than is found in any other country of Europe; she is in closer neighbourhood, throughout her structure, than any other Church, with the spirit of inquiry (I do not say of research), and is proportionably more liable to defections in the direction of unbelief, or, if that word be invidious, of non-belief or negation. But this great amount of actual peril and besetting weakness is, in at least a corresponding degree, potential force and usefulness, for others as well as for herself; and no philosophic observer, whatever be his leanings, can exclude her from a prominent place in his survey of Christendom.

These things, it seems to me, are not enough considered among us. If they were enough considered, we should be less passionate

in our internal controversies. We should recollect that we hold what all admit to be a middle place ; that the strain, as in a wheel, is greatest at the centre, the tendency to dislocation there most difficult to subdue. So we should more contentedly accept the burdens of the position, for the sake of the high, disinterested, and beneficent mission with which they seem to be allied. Even if I am wrong in the persuasion that much ought to be borne rather than bring about a rupture, I can hardly be wrong in claiming the assent of all to the proposition that we had better not prosecute our controversies wildly and at haphazard, but that we should carefully examine, before each step is taken, what other steps it will bring after it, and what consequences the series may as a whole involve.

I am quite aware of the answer which will spring to the lips of some. "The object of the long series of prosecutions, and of the Act of 1874, is to cut out a gangrene from the Church of England ; to defeat a conspiracy which aims at reversing the movement of the Reformation, and at remodelling her tenets, her worship, and her discipline, on the basis of the Papal Church : aye, even with all the aggravations of her earlier system, which that Church has in the later times adopted." But the answer to this answer is again perfectly ready. If there be within the Church of England a section of clergy or of laity, which is engaged in such a conspiracy, it is one extremely, almost infinitesimally small. I do not now deal with the very different charge against doctrines and practices which are said to *tend* towards the Church of Rome. This charge was made against Laud by the Puritans, and is made against the Prayer-Book at large by our Nonconforming friends, or by very many of them.* My point is that those, who *aim* at Romanizing the Church, are at worst a handful. If, then, the purpose be to put them down, attack them (as you think it worth while) in the points they distinctively profess and practise. But is this the course actually taken ? Are these

* These allegations did not commence with the revivals of our time. See for example the following extract from "The Catholic Question : addressed to the Freeholders of the County of York ;" on the General Election of 1826 : p. 24 :—

"All these things, however, are visible in the Church of England : go to a cathedral, hear and see all the magnificent things done there ; behold the regiments of wax tapers, the white-robed priests, the mace-bearers ; the chaunters, the picture over the altar, the wax-lights and the burnished gold plates and cups on the altar ; then listen to the prayers repeated in chaunt, the anthems, the musical responses, the thundering of the organ and the echoes of the interminable roof ; and then say, is not this idolatry ? it is all the idolatry that the Catholics admit ; it is the natural inclination that we have to those weak and beggarly elements, pomp and pride ; and which both Catholics and the High Church party think so important in religion. I boldly assert that there is more idolatry in the Church of England than amongst the English Catholics ; and for this simple reason, because the Church of England can better afford it. Two-thirds of the Church service is pomp and grandeur ; it is as Charles II. used to say, 'the service of gentlemen.' It is for show, and for a striking impression : the cathedral service is *nothing more or less than a mass*, for it is all chaunted from beginning to end, and the people cannot understand a word of it."

points the subjects of the recent prosecutions, of the present threats, of the crowd of pamphlets and volumes upon ritual controversy, which daily issue from the press? On the contrary, these prosecutions, these menaces, these voluminous productions, have always for their main, and often for their exclusive, subject the two points of Church law which relate to the position of the consecrator, and to the rubric on ecclesiastical vestments. But now we arrive at a formidable dilemma. Upon the construction of the law on these two points, the prosecuting parties are at variance, not with a handful, but with a very large number, with thousands and tens of thousands, both of the clergy and the laity of the Church of England, whose averments I understand to be these: first, that the law of 1662, fairly interpreted, enjoins the vestments of the First Prayer Book of Edward VI., and the eastward position of the consecrating priest; secondly, that it would be inequitable and unwise to enforce these laws, and that the prevailing liberty should continue; thirdly, that it would be inequitable and unwise to alter them. Are these propositions conclusive evidence of a conspiracy to assimilate the Reformed religion of England to the Papal Church? If they are not, why is the war to be conducted mainly, and thus hotly, in the region they define? If they are, then our position is one of great danger, because it is well known that a very large and very weighty portion of the clergy, with no inconsiderable number of the laity, proceeding upon various grounds—love of ritual, love of liberty, dread of rupture—are arrayed on the side of toleration against the prosecuting party. It is said to have been declared by persons in high authority, that a large portion of both clergy and laity do entertain the desire to Romanize the Church. I am convinced it is not so; but if it be so, our condition is indeed formidable, and we are preparing to “shoot Niagara.” For I hold it to be beyond dispute that, whether minor operations of the knife be or be not safe for us, large excisions, large amputations, are what the constitution of the patient will not bear. Under them the Establishment will part into shreds; and even the Church may undergo sharp and searching consequences, which as yet it would be hardly possible to forecast.

For the avoidance of these dangers, my long cherished conviction still subsists that the best and most effectual remedy is to be found in forbearing to raise contentious issues, and to aim at ruling consciences by courts. I say this is the most effectual remedy. For the next best, which is that the parties shall, after full and decisive exposition of the law, submit to the sentence of the tribunals, is manifestly incomplete. The prosecuting party, in the two matters of the Rubric on Vestments and the position of the consecrating minister, will doubtless submit to an adverse

judgment; but will as certainly, and not without reason from its own point of view, transfer to the legislative arena the agitations of the judicial forum. The Dean of Bristol, who has argued these questions with his usual force and directness, wishes that no alterations should be made in the rubrics, if what is called the Purchas judgment be maintained; but, with his acute eye, he has perhaps shrewd suspicions on that subject; and accordingly he says, if that judgment be not maintained, he is "for such wide agitation, such strong and determined measures, as shall compel [*sic*] the Legislature to give back to the Church its old and happy character of purity."* A pleasant prospect for our old age! But the Dean has this advantage over me. He does not object to the *voies de fait*, and if only the judgment goes his way will be quite happy. I am one of those who have the misfortune of being like Falkland in the war of King and Parliament: I shall deplore all disturbing judgments, wholly irrespective of my own sympathies or antipathies. If the prosecutors are defeated, who are strongly (to use a barbarous word) establishmentarian, we shall have agitation for a change in the law, too likely to end in rupture. If they succeed (which I own I find it very difficult to anticipate), we shall have exaggerated but unassailable manifestations of the feeling it has been sought to put down; and, while this is the employment of the *interim*, the party hit, who are by no means so closely tied to the alliance of the Church with the State, will, despairing of any other settlement, seek peace through its dissolution.

It may now perhaps in some degree appear why I have pressed so earnestly the severance of these rubrical suits from "doctrinal significance." Could we but expel that noxious element from the debate, could we but see that the two conflicting views of the position and the vestments are just as capable, to say the least, of a large and innocuous as of a specific and contentious interpretation, then we might hope to see a frame of mind among the litigators, capable of acquiescence in any judgment which they believe to be upright, and to be given after full consideration of the case. Soreness there might be, and murmuring; but good sense might prevail, and the mischief would be limited within narrow bounds. But unhappily men of no small account announce that they care not for the sign, they must deal with the thing signified. They desire the negation by authority of the doctrine of the Real Presence of our Lord and Saviour Christ, and of the Eucharistic Sacrifice; negations which, again, are synonymous with the disruption of the English Church.

When prudent men, or men made prudent by responsibility, are associated together for given purposes, whether in a cabinet, or

* Letter to Rev. Mr. Walker, pp. 23—26.

a synod, or a committee, or a board, and they find their union menaced by differences of opinion, they are wont first to test the minds of one another by argument and persuasion; and, failing these instruments, both the instinct of self-preservation and the laws of duty combine in prompting them to put off the evil day, and thus to take the benefit of enlarged information, of fresh experience, of the softening influences of association, and of whatever other facilities of solution the unrevealed future may embrace. Why can we not carry a little of this forbearance, founded upon common sense, into religion, and at least fetch our controversies out of the torrid into the temperate zone?

The time may, and I hope will, arrive, when a spirit of more diffusive charity, a wider acquaintance with the language and history of Christian dogma, and a less jealous temper of self-assertion, will enable us to perceive how much of what divides us in the Eucharistic controversy is no better and no worse than logomachy, and how capable men, ridding themselves of the subtleties of the schools and of heated reactions, may solve what passion and faction have declared insoluble.

But that time has not yet arrived; and, if the doctrine of the Eucharist must really be recast, there are no alternatives before us except on the one hand disruption, on the other postponement of the issue until we can approach it under happier auspices. The auspices are not happy now. There are even those in the English Church who urge with sincerity, and with impunity, the duty of preaching the "Real Absence,"* and, though these be few, yet many who shrink from the word may be nearly with them in the thing. On the other side, wholly apart from the energy of partisanship, from a Romanizing disposition, and from a desire for the exaltation of an order, there are multitudes of men who believe that the lowering of the sacramental doctrine of the English Church, in any of its parts, will involve, together with a real mutilation of Scriptural and Catholic truth, a loss of her Christian dignity, and a forfeiture of all the hopes associated with her special position in Christendom. Of all sacramental doctrine, none is so tender in this respect as that which relates to the Eucharist. The gross abuses of practice, and the fanciful excesses of theological speculation in the Western Church before the Reformation, compelled the Anglican Reformers to retrench their statements to a minimum, which can bear no reduction whether in the shape of altered formulæ or of binding constructions. If, in these times of heat, we abandon the wise self-restraint which in the main has up to a recent time prevailed, it is too probable that wanton tongues, prompted by ill-trained minds,

* Rev. Mr. Wolfe on the "Eastward Position," p. 4.

may reciprocally launch the reproaches of superstition and idolatry on the one hand, of heresy and unbelief on the other. Surely prudence would dictate that in these circumstances all existing latitude of law or well-established practice, should as a rule be respected; that no conscience be pressed by new theological tests, either of word or action; and that we should prefer the hope of a peaceful understanding, in some even distant future, to the certainty of a ruinous discord as the fruit of precipitancy and violent courses. One of the strangest freaks of human inconsistency I have ever witnessed is certainly this. We are much (and justly) reminded, with reference to those beyond our pale, to think little of our differences and much of our agreements; but at the same time, and often from the same quarters, we are taught and tempted by example if not by precept, within our own immediate "household of faith," to think incessantly of our differences, and not at all of our much more substantial and weighty agreements.

The proposition, then, on which I desire to dwell as the capital and cardinal point of the case is, that heavy will be the blame to those, be they who they may, who may at this juncture endeavour, whether by legislation or by judicial action, and whether by alteration of phrases or by needlessly attaching doctrinal significance to the injunction or prohibition of ceremonial acts, to shift the balance of doctrinal expression in the Church of England. The several sections of Christendom are teeming with lessons of all kinds. Let us, at least in this cardinal matter of doctrinal expression, wait and learn. We have received from the Almighty within the last half-century, such gifts as perhaps were hardly ever bestowed within the same time on a religious community. We see a transformed clergy, a laity less cold and neglectful, education vigorously pushed, human want and sorrow zealously cared for, sin less feebly rebuked, worship restored from frequent scandal and prevailing apathy to uniform decency and frequent reverence, preaching restored to an Evangelical tone and standard, the organization of the Church extended throughout the empire, and this by the agency, in many cases that might be named, of men who have succeeded the Apostles not less in character than in commission. If we are to fall to pieces in the face of such experiences, it will be hard to award the palm between our infatuation and our ingratitude; and our just reward will be ridicule from without our borders, and remorse from within our hearts.

This highly-coloured description I desire to apply within the limits only of the definite statement with which it was introduced. But I am far from complaining of those who think the evils of litigation ought to be encountered, rather than permit even a handful of men to introduce into our services evidences of a design to Romanize the religion of the country; and I have always thought

that effective provision should be made to check sudden and arbitrary innovation as such, even when it does not present features of intrinsic mischief. To me this still appears a wiser and safer basis of proceeding than an attempt to establish a cast-iron rule of uniform obedience to a vast multitude of provisions sometimes obscure, sometimes obsolete, and very variously understood, interpreted, and applied. But this preference is not expressed in the interest of any particular party, least of all of what is termed the High Church party. For the rubrics, which the Public Worship Act is to enforce, may, with truth, be generally described as High Church rubrics; and the mere party man, who takes to himself that designation, has reason to be grateful to the opposing party for having so zealously promoted the passing of the Act. For my own part, I disclaim all satisfaction in such a compulsory enforcement of rubrics which I approve; and I would far rather trust to the growth of a willing obedience among those who are called Low Churchmen, where it is still deficient. I am far, however, from asserting that all enforcement of the law, beyond what I have above described, must of necessity produce acute and fatal mischiefs. Much folly both of "reges" and "Achivi" has been borne, and may yet be borne, while Judgments are such as to carry on their front the note of impartiality, and as long as we avoid the rock of doctrinal significance, and maintain the integrity of the Prayer-Book.

But I must endeavour, before closing these remarks, to bring into view further reasons against free and large resort to penal proceedings in regard to the ceremonial of the Church. The remarks I have to offer are critical in their nature, for they aim at exhibiting the necessary imperfections even of the best tribunal; but they do not require the sinister aid either of bitterness or of disrespect.

The first of these remarks is that the extinction of the separate profession of the civilian, now merged in the general study and practice of the bar, and the consolidation of the Courts of Probate and Admiralty with those of Equity and Common Law, have materially impaired the chances, which have hitherto existed, of our finding in our judges of ecclesiastical causes the form of fitness growing out of special study. Any reader of the learned Judgments of the Dean of Arches may perceive the great advantages they derive from this source. It may be thought, with some reason, that episcopal assessors will, in doctrinal cases, help to supply the defect; but it would not be easy to arrange that the most learned bishops should be chosen as assessors; and the general standard of learning on the bench cannot, under the hard conditions of modern times, be kept very high. The number of individuals must at all times be small who unite anything like

deep or varied learning with the administrative and pastoral qualities, and the great powers of business and active work, which are now more than ever necessary in a bishop. But in questions of ceremonial, the difficulties are greater still.

Let any one turn, for example, to the decision on appeal in the *Purchas* case, as it is the most recent, and seems to be the most contested, of the rubrical decisions. He will find, perhaps with surprise, that it does not rest mainly on considerations of law, but much more upon the results of historical and antiquarian study. Though rightly termed a legal judgment, and though it of course has plenary authority as to the immediate question it decides, it is in truth, and could not but be, as to the determining and main portion of it, neither more nor less than a purely literary labour. Now, the authority of literary inquiries depends on care, comprehensiveness, and precision, in collecting facts, and on great caution in concluding from them. There is no democracy so levelling as the Republic of Letters. Liberty and equality here are absolute, though fraternity may be sometimes absent on a holiday. And a literary labour, be it critical, be it technical, be it archæological, when it has done its immediate duty in disposing of a cause, cannot afterwards pass muster by being wrapped in the folds of the judicial ermine. It must come out into the light, and be turned round and round, just as freely (though under more stringent obligations of respect) as Professor Max Müller's doctrine of solar myths, or Professor Sylvester's fourth dimension in space, or Dr. Schliemann's promising theory that Hissarlik is Troy. It is, I believe, customary, and perhaps wise, that a prior judgment of the highest court of appeal should govern a later one. It is alleged, nor is it for me to rebut the allegation, that the *Purchas* judgment contradicts the judgment in the case of *Liddell v. Westerton*; but, if so, this is accidental, and does not touch the principle, which seems to be generally acknowledged. Now, however well this may stand with respect to interpretation of law, yet with respect to historical and antiquarian researches, and to judgments which turn on them, it would evidently be untenable, and even ludicrous. And then comes the question, what right have we to expect from our judges, amidst the hurry and pressure of their days, and often at a time of life when energy must begin to flag, either the mental habits, or the acquisitions, of the archæologist, the critic, or above all of the historian? Why should we expect of the bishop, because he may be assumed to have a fair store of theology, or of the judge, because he has spent his life in pleading and hearing causes, that they should be adepts in historical research, or that they should be imbued with that which is so rare in this country, the historic sense and spirit, abundant, in this our day, nowhere but in Germany?

It may be said that judges can and will avail themselves of the labours of others; but they are unhappily not in the ordinary condition of courts of first instance, who can collect evidence of all kinds at will. They are confined to published labours, when they go beyond the *ex parte* statements with which counsel may supply them. Still they are sure to do their best, and they may get on well enough, if the subject happens to be one of those which have been thoroughly examined, and where positive conclusions have been sufficiently established. But what if, on the contrary, it has been one neglected for many generations? if the authorities, so far as they go, are in serious if not hopeless conflict? if the study of the matter has but recently begun, and that only amidst the din and heat, and for the purposes, of the actual controversy? What is the condition of a judge who has to interpret the law by means of *data*, which only the historian and the antiquarian can supply and digest respectively, when they have not digested or supplied them? For example, what if he have to investigate the question how a surplice is related to an alb, how far the use of either accompanies or excludes the cope or the chasuble (as a coat excludes a lady's gown), or in what degree the altarwise position of the Holy Table had been established at the time when the Commissioners at the Savoy were engaged in the revision of the Liturgy? In this country a barrister cannot be his own attorney; yet a judge may not only have to digest his own legal apparatus, but may also be required to dive, at a moment's notice, into the *tohu-bohu* of inquiries which have never yet emerged from the stage of chaos; and the decision of matters of great pith and moment for Christian worship and the peace of the Church comes to depend upon what is at best, by no fault of his, random and fragmentary knowledge.

Any reader of the Purchas Judgment on Appeal will perceive how truly I have said that it rests mainly, not on judicial interpretations, but on the results of literary research. In such interpretations, indeed, it is not wanting; but they are portions only of the fabric, and are joined together by what seems plainly to be literary and antiquarian inquiry. The Judicial Committee decide, for example, with regard to sacerdotal vestments, that the Advertisements of 1564 have the authority of law; and to this decision the mere layman must respectfully bow.* But they also rule that the Advertisements in prescribing the use of the surplice for parish churches, proscribe the use of the cope or the chasuble, and that the canons of 1603-4 repeat the prohibition.† Now, this is a

* Brooke's Reports, p. 171, 176.

† *Ibid.*, p. 178. "If the minister is ordered to wear a surplice at all times of his ministrations, he cannot wear an alb and tunicle when assisting at the Holy Communion; if he is to celebrate the Holy Communion in a chasuble, he cannot celebrate in a surplice."

proposition purely antiquarian. It depends upon a precise knowledge of the usages of what is sometimes termed "ecclesiastical millinery." Can judges, or even bishops, be expected to possess this very special kind of knowledge, or be held blameable for not possessing it? I think not. But when even judges of great eminence, of the highest station, and of the loftiest character, holding themselves compelled to decide, aye or no, on the best evidence they can get as to every question brought before them, that the use of the surplice excludes the use of the chasuble, this is after all a strictly literary conclusion, and is open to be confirmed, impaired, or overthrown, by new or wider evidence which further literary labour may accumulate. And, indeed, it appears rather difficult to sustain the proposition that the surplice when used excludes all the more elaborate vestments, since we find it actually prescribed in one of the rubrics at the end of the Communion Office in the Prayer-Book of 1549, that the officiating minister is ordered to "*put upon him a plain alb or surplice with a cope.*"

Again, the Judicial Committee, in construing the rubrics as to the position of the minister, states that before the revision of 1662, "the custom of placing the table along the east wall was becoming general, and it may fairly be said that the revisers must have had this in view." This, of course, is a pure matter of history. Before and since the judgment was given, it has been examined by a variety of competent writers; and I gather from their productions, that had these been before the tribunal in 1871, it must have arrived, on this point, at an opposite opinion. The conclusion of Mr. Scudamore indeed is that the present position of the altars is the work of the eighteenth century.

The literary conclusion with respect to the surplice appears to be the foundation-stone of the Purchas judgment with reference to vestments. But it seems to be also collaterally sustained by three other propositions: one, that the articles of visitation, and the proceedings of commissions, in and after the reign of Elizabeth, prescribe the destruction of vestments, albs, tunicles, and other articles, as monuments of superstition and idolatry; the second, that the requisitions of bishops in these parochial articles are limited to the surplice; the third, that there is no evidence of the use of vestments during the period. All these are matters, not of law, but of historical criticism.

The critics of the Judgment are numerous, and few of them, perhaps, make due allowance for the difficulties under which it was framed. Their arguments are manifold, and far beyond my power fully to cite. Among other points, they admit the second of these three propositions, and consider that the attempts of the ruling authorities were limited, as regards enforcement, to the surplice;

but hold that in those times what the law prescribed was one thing—what it enforced, or attempted to enforce, was another. Mr. MacColl* cites a remarkable example; namely, that while the rubric required the priest to read daily four chapters of Holy Scripture, the Advertisements aimed at enforcing only two. The orders of destruction raise a point of great importance, which demands full inquiry. As far as I have noticed, they seem uniformly to include “crosses” as “monuments of superstition and idolatry;” yet the Judicial Committee in *Westerton v. Liddell*, and in *Hebert v. Purchas*, decide that crosses for decoration of the building are lawful. As regards the actual use of vestments, Mr. MacColl (while presuming that in a penal case it is evidence of disuse, not of use, that is demanded) supplies what he thinks ample proof;† and it is noticed that in the judgment itself there is evidence, viz., that of *Dering* (1593), and *Johnson* (1573), sufficient to impede an universal assertion. But into these matters I do not enter. I confine myself to urging the necessity of further historical and archæological inquiries, as absolutely necessary in order to warrant any judgments restrictive, in whatever sense, of the apparent liberality of our laws and practice; and I rejoice to see that for this end so many persons of ability, beside those I have named, are bringing in their respective contributions.‡

I suppose it to be beyond doubt that in our times the acts of the officers of the law may be taken as evidence of what the law is, or is reported to be. The burning of printed editions of English books by the Customs would prove that the importation of such works was prohibited. But history seems to show that this apparently obvious rule cannot be applied to times like those of the Reformation without much caution and reserve. For example: The *Purchas* judgment states that the law required the use of copes in cathedral and collegiate churches, and generally treats authorized destruction as evidence of illegality; but it appears§ that the Queen’s Commissioners at Oxford, in 1573 (when the anti-papal tide was running very high), ordered in the College Chapel of All Souls that all copes should be defaced and rendered unfit for use.

There are three cautionary remarks, with which I shall conclude.

The first is that, unless I am mistaken, the word evidence is sometimes used, in judgments on ceremonial, in a mode which involves a dangerous fallacy. It seems to be used in a judicial sense, whereas it is really used in a literary sense. As respects the

* “Lawlessness, Sacerdotalism, and Ritualism,” p. 76.

† *Ibid.*, pp. 59—70.

‡ For example, Mr. Beresford Hope and Mr. Morton Shaw. Mr. Droop has produced some useful illustrations.

§ Droop on Edwardian Vestments, p. 26.

testimony given in a case, the judge deals judicially, and with his full authority as a judge; but the illustrative matter he collects in these suits from books or pamphlets, laborious as he may be, and useful as it may be, is not evidence except in the sense in which Dr. Schliemann thinks he has plenty of evidence as to the site of Troy; it is historical inquiry, or literary or learned speculation.

The second is that, if I am right in laying down as the grand requisite for arriving at truth in these cases the historian's attainments and frame of mind, the judge, and the lawyer, labour in these cases under some peculiar difficulties. It is almost a necessity for the judge, as it is absolutely for the advocate, that every cause be resolved categorically by an Aye or a No. But the historical inquirer is not conversant with Aye and No alone: he is familiar with a thousand shades of colour and of light between them. The very first requisite of the historic mind is suspense of judgment. Judicial business requires, as a rule, a decision between two—it is the judgment of Solomon; but the historian may have to mince the subject into many fragments, according to the probabilities of the case; he deals habitually with conjectures and likelihoods, as well as positive assertions. The judge has to give all where he gives anything, and his mental habit forms itself accordingly; but the "I doubt" which was so much criticized in Lord Eldon, is among the most prominent characteristics of the philosophic and truth-loving historian.

Lastly; after the famous judgment Mr. Burke has passed upon the immense merits, and besetting dangers, of the legal mind, with direct relation to the character of Mr. Grenville, that great master proceeds to state that "Mr. Grenville thought better of the wisdom and power of human legislation than in truth it deserves."* Most eminently does this seem to me to be true, in observing the manner after which our judges sometimes deal with ancient laws. Such as the character and efficacy of law is now, such they are apt to assume it always must have been. It has not been their business to consider the enormous changes in the structure of society, on its toilsome way through the rolling ages, from a low to a high organization. The present efficiency of law presumes the full previous inquiry and consultation of the deliberative power, and the perfect strength of the executive. But that strength depends on the magistracy, the police, the judiciary, the standing army, upon the intercommunication of men and tidings by easy locomotion, upon a crowd of arrangements for the most part practically unknown to the loosely compacted structures of mediæval societies. The moral force, which abode in them, had little aid, for the purposes of the supreme power, except on the most pressing emer-

* Speech on American Taxation. Works, vol. ii. p. 389.

gencies, from material force; partial approximations were then only possible, in cases where the modern provisions for obedience are nearly complete. The law of to-day is the expression of a supreme will, which has, before deciding on its utterance, had ample means to consult, to scrutinize the matter, to adapt itself to practical possibilities; and it is justly construed as an instrument which is meant to take, and takes, immediate and uniform effect. But the laws of earlier times were to a great extent merely in the nature of authoritative assertions of principle, and tentative efforts towards giving it effect; and were frequently, not to say habitually, according to the expedencies of the hour, trampled under foot, even by those who were supposed to carry them into execution. Take the great case of *Magna Charta*, in which the community had so vast an interest. It was incessantly broken, to be incessantly, not renewed, but simply re-affirmed. And law was thus broken by authority, as authority found it convenient: from the age when Henry III. "passed his life in a series of perjuries," as is said by Mr. Hallam,* to the date when Charles II. plundered the bankers, *Magna Charta* was re-asserted, we are told, thirty-two times, without ever having been repealed. But we do not therefore, from discovering either occasional or even wholesale disobedience, find it necessary to read it otherwise than in its natural sense. The reign of Elizabeth bisects the period between *Magna Charta* and ourselves. But very little progress had been made in her times towards improving the material order of society; and, from religious convulsion, they were in truth semi-revolutionary times. Acceding to the throne, she had to struggle with an intense dualism of feeling, which it was her arduous task to mould into an unity. The clergy, except a handful, sympathized largely with the old order, and continued very much in the old groove throughout the rural and less advanced districts. To facilitate her operations on this side, she wisely brought in the Rubric of Ornaments. But there had also sprung up in the kingdom, after the sad experience of Mary's reign, a determined Puritanism, lodged principally at the main centres of population, and sustained by the credit of the returning exiles (several of them bishops), and by the natural sympathies of the Continental Reformation. Where this spirit was dominant, the work of destruction did not wait for authority, and far outran it. In truth, the powers of the Queen and the law were narrowly hedged in, on this side as well as on the other. What could be more congenial to her mind and to her necessities, than that, for all this second section of her people, she should wink hard at neglect in a sore point like that of vestments, and that in pro-

* *Middle Ages*, ii. 451-3.

ceeding to the Advertisements of 1564, though obliged to apply a stronger hand, she should confine herself to expressing what she thought absolute decency required, namely, the surplice, and leave the rubric and the older forms to be held or modified according to the progressive action of opinion? Considering the violent divergences with which she had to deal, would it not have been the ruin of her work if she had endeavoured to push to the extremes now sometimes supposed the idea of a present and immediate uniformity throughout the land? This I admit is speculation, on a subject not yet fully elucidated; but it is speculation which is not in conflict with the facts thus far known, and which requires no strain to be put upon the language of the law.

“England expects every man to do his duty;” and this is an attempt at doing mine, not without a full measure of respect for those, who are charged with a task now more than ever arduous in the declaration and enforcement of the law. To lessen the chances of misapprehension I sum up, in the following propositions, a paper which, though lengthened, must, I know, be dependent to a large extent upon liberal interpretation.

I. The Church of this great nation is worth preserving; and for that end much may well be borne.

II. In the existing state of minds, and of circumstances, preserved it cannot be, if we shift its balance of doctrinal expression, be it by an alteration of the Prayer Book (either way) in contested points, or be it by treating rubrical interpretations of the matters heretofore most sharply contested on the basis of “doctrinal significance.”

III. The more we trust to moral forces, and the less to penal proceedings (which are to a considerable extent exclusive one of the other), the better for the Establishment, and even for the Church.

IV. If litigation is to be continued, and to remain within the bounds of safety, it is highly requisite that it should be confined to the repression of such proceedings as really imply unfaithfulness to the national religion.

V. In order that judicial decisions on ceremonial may habitually enjoy the large measure of authority, finality, and respect, which attaches in general to the sentences of our courts, it is requisite that they should have uniform regard to the rules and results of full historical investigation, and should, if possible, allow to stand over for the future matters insufficiently cleared, rather than decide them upon partial and fragmentary evidence.

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